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BY FACSIMILE AND ECF

Honorable Naomi Reice Buchwald
United States District Judge
United States Courthouse
500 Pearl Street
New York, NY 10007

Re: United States v. Rajarengan Rajaratnam, 13 Cr. 211 (NRB)

Dear Judge Buchwald:

We represent Rengan Rajaratnam and respectfully submit this letter in brief response to the government's letter of today.

The government writes that it is the task of the jury, not the court, to choose among competing inferences. (Govt. Ltr. at 1.) But in discussing the "cases" upon which the defense has relied, the government only discusses one such case and ignores several key Second Circuit decisions. (*Id.* at 3). In her dissent in *United States v. Cassese*, Judge Raggi articulated the same standard the government urges this Court to adopt, stating, "[t]he fact that inferences favorable to the defense could also be drawn from the evidence is of no import because 'the task of choosing among competing inferences is for the jury, not a reviewing court.'" 428 F.3d 92, 104 (2d Cir. 2005) (quoting *United States v. Salmonese*, 352 F.3d 608, 618 (2d Cir. 2003)). That view was rejected by the majority, which reviewed in detail the facts upon which the government's inferences of guilt rested and affirmed the grant of Rule 29 because the facts led equally to inferences of innocence or guilt.

The government's letter ignores *Cassese* in the section of its letter addressed to the "Sufficiency of the Evidence in Insider Trading Prosecution," even though *Cassese* is a securities fraud case. The only case the government discusses in detail is a narcotics and murder case.

Respectfully submitted,



Daniel M. Gitner

cc: AUSA Christopher D. Frey (by email)
AUSA Randall W. Jackson (by email)